

# CODE OF ETHICS

Date Approved: December 18, 2012

Date Revised and Approved: March 17, 2020

Resolution: None

## SECTION 9.0 ETHICS CODE

### 9.1 Declaration of Policy

Lafayette County elected Officials and Employees are agents of the public and have the sole purpose of serving that public. They are bound to uphold the Constitution of the United States, the Constitution of the State of Wisconsin and to carry out efficiently and impartially all laws of the United States, the State of Wisconsin, and the Ordinances of Lafayette County. Every decision made and every action taken by Lafayette County Officials must be done in the best interests of the public being served. The Lafayette County Board of Supervisors therefore adopts this ethics ordinance in an attempt to ensure the highest of ethical standards and the faithful discharge of their duties.

### 9.2 Purpose

The purpose of this Code is to establish high ethical standards of conduct for all Lafayette County Officials and Employees by identifying those acts or actions that are not compatible with the best interest of the County as a whole. **See Addendum 1.** It must be recognized that no single ordinance can anticipate every possible individual situation that may arise. However, in all situations, Officials and Employees must place the interest of the public first and foremost and, as much as possible, avoid even the appearance of impropriety. At the same time, it must be understood that Lafayette County Officials and Employees are also citizens who retain their individual rights to personal and economic interests. Therefore, the standards of ethical conduct for County Officials and Employees must distinguish between minor and inconsequential conflicts which are unavoidable and those conflicts which are substantial and material. The provisions of this code, and such policies, rules and regulations which may be established are to be interpreted in the context of the above principles and are deemed to be in the best interest of the public.

### 9.3 Applicability

This ordinance applies to all Lafayette County Officials and Employees, whether elected or appointed, paid or unpaid, full time or part time, including all members of boards, committees and commissions, department heads, and all other County Employees.

## 9.4 Exemptions

Political contributions reported under Chapter 11, Wis. Stats., are exempt from the provisions of this code.

## 9.5 Definitions

- A. **Anything of Value:** Any money or property, favor, service, payment, advance, forbearance, loan or promise of future employment, but does not include such things as compensation and expenses paid by the state or County, fees, honorariums and expenses, unsolicited advertising or promotional material such as pens, pencils, notepads, calendars, informational or educational materials of unexceptional value, plaques, other advertising giveaways or any other thing which is not likely to influence the judgment of individuals covered by this code.
- B. **Anything of Insignificant Value:** Includes unsolicited advertising or promotional materials such as pens, pencils, notepads, calendars, informational or educational materials of insignificant value, (an item from a vendor that costs less than \$25.00 on a one (1) time basis, but not more than \$50.00 worth of items in a calendar year from a vendor), plaques, other advertising giveaways or any other thing which is not likely to influence the judgment of individuals covered by this Code.
- C. **Associated:** When used in reference to an organization, includes any organization in which an individual or a member of his/her immediate family is a director, officer, or trustee, or who has a significant fiduciary relationship or an individual who owns or controls, directly or indirectly, and severally or in the aggregate, at least ten (10) percent of the outstanding equity.
- D. **Confidential Information:** Means written material or oral information related to county government that is not otherwise subject to the open records law and that is designated by statute, court decision, lawful order, ordinances, resolutions or custom as confidential.
- E. **Contract:** Means all agreements executed between the County or a sub-unit thereof and another party or parties, for the provision of goods, materials, supplies, construction or services in exchange for valuable and sufficient consideration.
- F. **Employee:** Means any person employed by the County in any capacity, fulltime or part-time, and not otherwise included in the definition of Official.
- G. **Financial Interest:** Means any interest which yields, directly or indirectly, a monetary or other material benefit to the Official or Employee, or to any person employing or retaining services of the Official or Employee.
- H. **Immediate Family:** Means an Official's or Employee's spouse, children, stepchildren, parents, grandparents, stepparents, or other legal relation who contributes more than one-half (1/2) support to the Official or employee, or receives that level of support from the Official or employee, or lives in the Official's or Employee's residence.

- I. **Official:** Includes all County elected officials and appointed members of Policy making Boards, Boards and Commissions.
- J. **Organization:** Means any stock or non-stock corporation, partnership, proprietorship, firm, enterprise, franchise, incorporated or unincorporated association, trust or other legal entity other than an individual or body politic.
- K. **Personal Interest:** Means any interest arising from blood or marriage relationships or from close business or political associations, whether or not any financial interest is involved.
- L. **Significant Fiduciary Relationship:** Means owning or controlling, directly or indirectly: (a) at least ten (10) percent of the outstanding stock or stock of any business corporation having a cost or market value of at least five thousand dollars (\$5,000); or (b) an interest of at least ten (10) percent or five thousand dollars (\$5,000) of any organization.

## 9.6 Fair and Equal Treatment

- A. **Use of Public Property:** An official or employee shall not use, or knowingly permit the use, of County services or County-owned vehicles, equipment, materials for unauthorized non- governmental purposes or for unauthorized personal convenience or for profit, unless such services or use are available to the public generally and consistent with practices and policies of the County.
- B. **Obligations to Citizens:** An official or employee shall not grant any special consideration, treatment or advantage to any citizen beyond that which is available to every other citizen. This section does not affect the duty of County supervisors to diligently represent their constituency.

## 9.7 Conflicts of Interest

- A. **Receipt of Gifts and Gratuities Prohibited:** An official or employee shall not accept anything of value whether in the form of a gift, service, loan or promise from any person which may impair his or her independence of judgment or action in the performance of his or her official duties.
- B. **Exception:** It is not a conflict of interest for an official or employee to receive a gift or gratuity that is an unsolicited item of insignificant value or anything which is given to them independent of their position as an official or employee.
- C. **Business Interest:** An official or employee shall not engage in any business or transaction or act in regard to any financial interest, direct or indirect, which:
  1. Is incompatible with the proper discharge of his or her official duties for the benefit of the public; or,
  2. Is contrary to the provisions of this code; or,
  3. May impair his or her independence of judgment or action in the performance of his or her official duties.
- D. **Employment:** An official or employee shall not engage in or accept any private employment or render any service for a private interest when such employment or service is incompatible with the proper discharge of his or her official duties or

which may impair his or her independence of judgment or action in the performance of his or her official duties unless otherwise permitted by law or unless disclosure is made as hereinafter provided. An employee shall obtain prior approval from their Department Head, or in the case of a Department Head, from the applicable oversight committee, before engaging in outside employment.

- E. **Contracting:** An official or employee or a business in which an official or employee holds a 10% or greater interest, may not enter into a contract with the County involving a payment or payments of more than \$1,000 amount within a twelve-month period unless the official or employee has made a written disclosure of the nature and extent of such relationship or interest to the County Clerk and reported such interest to the County Board. Further, pursuant to Wis. Stat. § 946.13, an official or employee is prohibited from participating in the formation of a contract or contracts with Lafayette County involving the receipts or disbursements of more than \$15,000 in any year.
- F. **No Financial Gain:** Except as otherwise provided or approved by the County Board, no Official or Employee shall use his/her public position or office to obtain financial gain or anything of value for the private benefit of himself/herself or his/her immediate family, or for an organization with which he/she is associated.

## **9.8 Financial Interest in Legislation**

A member of the County Board who has a financial interest in any proposed action before the County Board shall disclose the nature and extent of such interest to the County Clerk and the County Board prior to or during the initial discussion of such action and shall refrain from participating in the discussion of and/or voting on such action. A member of the County Board shall request to be excused by the Board or Committee chairperson for the duration of any deliberations concerning such action in which the member has a financial interest. Any other official or employee who has a financial interest in any proposed action before the County Board, and who participates in discussion with or gives an official opinion or recommendation to the County Board, shall first disclose the nature and extent of such interest to the County Board.

## **9.9 Disclosure of Privileged Information**

An official or employee shall not disclose or permit the disclosure of confidential or privileged information of any type to any person not lawfully authorized to receive such privileged information. An official or employee shall not use privileged information to advance his or her personal financial interest or that of his or her immediate family or for any other reason. Wisconsin government places a very strong emphasis on open government. When an exception exists to the Wisconsin Open Meetings law, it is for the purpose of protecting individual reputation and interests, business interests, competitive or financial interests or some other recognized legitimate and significant public policy purpose. Failure to maintain the confidentiality of information presented or discussed in closed session jeopardizes the privacy and liberty interests of individuals, businesses and government itself. No official or employee shall discuss, disclose, divulge, leak or share in any way information from a closed public meeting to any person not personally

present at that public meeting. The only exception to this provision is information discussed of necessity with another County Board Committee or Board while meeting formally in a lawfully posted meeting and which committee is directly involved in some aspect pertaining to the business of the original closed session.

It is imperative that all public officials recognize the importance of their ethical obligation to maintain private information in a confidential matter. Any violation of this provision shall be considered to be a particularly serious and egregious matter.

### **9.10 Gifts and Favors**

An official or employee shall not accept, from any person or organization directly or indirectly, anything of value without full payment, if it could reasonably be expected to influence his or her vote, governmental actions or judgments or is provided to such official or employee because of their position or office and could reasonably be considered as a reward for any governmental action or inaction.

### **9.11 Nepotism**

- A. "Related person" includes: the employee's spouse, brother, sister, parent, guardian, child, grandparent, grandchild, domestic partner, significant other as well as the various combinations of half, step, in-law and adopted relationships that can be derived from the family members named herein. A person considered to be a "significant other" would include a person with whom the supervisor cohabits or whom he/she maintains an intimate relationship. This policy is established to eliminate the possibilities of preferential treatment given in favor of relatives and to reduce possible criticism to appointing authorities.
- B. Department Heads are prohibited from hiring a person related to them for County employment where that newly hired person would be either directly or indirectly supervised by the hiring Department Head.
- C. No person shall be employed, promoted, or transferred to any department, division, or work unit when, as a result, the employee would be directly supervising or receiving direct supervision from a related person.
- D. An official or employee shall not approve or advocate for approving increases in the rate of pay or benefits of a related person.

### **9.12 State Statutes Incorporated**

- A. Statutes Incorporated by Reference: The following sections of the Wisconsin Statutes as may be, from time to time amended, are hereby incorporated by reference and made a part of this Code of Ethics:
  - 1. Wis. Stat. § 19.01 (Oaths and Bonds); and,
  - 2. Wis. Stat. § 19.21 (Custody and Delivery of Official Property and Records); and,
  - 3. Wis. Stat. § 19.81- § 19.89 (Open Meetings of Governmental Bodies); and,

4. Wis. Stat. § 19.59 (Codes of Ethics for Local Government Officials, Employees and Candidates).
- B. Violation of Incorporated Statutes: Officials shall comply with the sections of the Wisconsin Statutes incorporated in this Code and failure to do so shall constitute a violation of this Code of Ethics.

### 9.13 Enforcement and Administrative Procedures

- A. **Advisory Opinions:** Any person governed by this Code of Ethics may apply in writing to the County Corporation Counsel for an advisory opinion and shall be guided by any opinion rendered. The applicant shall present his or her interpretation of the facts at issue and of the applicability of provisions of this Code before the advisory opinion is rendered. All requests for opinion and opinions rendered shall be in writing. Records of the Corporation Counsel's opinions, opinion requests and investigations of violations shall be closed to public inspection, as required by Chapter 19 of the Wisconsin Statutes as from time to time amended. The applicant may authorize in writing that such records be made public.
- B. **Ethics Inquiry Board:** There is hereby created an Ethics Inquiry Board to consist of three members and one alternate, one of whom shall be an attorney licensed to practice law in the State of Wisconsin, appointed by the County Board Chairperson subject to confirmation by the County Board. The members of the Ethics Inquiry Board shall be residents of Lafayette County and shall not be County Public Officials during the time of appointment, and shall serve staggered three year terms expiring on the third Tuesday in April of the third year following their appointment except as otherwise provided in the implementation of this ordinance, The Corporation Counsel shall provide legal advice, administrative support and assistance to the Ethics Inquiry Board. The Ethics Inquiry Board shall be entitled to mileage and per diem payments for meetings and hearings of the Ethics Inquiry Board on the same basis as provided to members of other Lafayette County Boards, Committees or Commissions.
- C. **Complaints:**
  1. All complaints shall be verified and in writing. The complaint shall state the specific provision(s) of the County Ethics Code or Wisconsin Statutes section(s) or both believed to have been violated and shall include sufficient information to support the allegations. The complaint shall also include the following:
    2. The name, address and telephone number of the complainant;
    3. The name, address and position of the individual who is the subject named in the complaint;
    4. The facts constituting the alleged ethics violation(s) set forth clearly and in detail;
    5. If complainant(s) believes that any Board member has a conflict of interest or bias, the complaint shall state it in the complaint.
    6. Complaints that do not meet the minimum pleading requirements in Subsection C, 1 and 2 above shall be dismissed without prejudice.

7. No action may be taken on any complaint that is filed later than six months after a violation of the Ethics Code is alleged to have occurred.
8. All written complaints shall be submitted to the County Clerk, 626 Main Street, Darlington, WI 53530. The County Clerk shall forward the complaint to the Chair of the Ethics Board and the Corporation Counsel.

**D. Procedure Before the Board:**

1. The Corporation Counsel shall review the complaint to assure that it meets all procedural and technical requirements. If the complaint is defective, the Corporation Counsel shall notify the complainant of the defect within fourteen (14) days of receipt of the complaint. The complainant must correct the defect within thirty (30) days of the Corporation Counsel's notification or the complaint will be administratively closed.
2. The Corporation Counsel shall send notice, including a copy of the complaint to the respondent(s) and complainant within fourteen (14) business days of the receipt of the complaint by the Chair. The notice shall be sent via certified mail or by personal service.
3. The notice shall inform the respondent that they may file a written statement of their position with the Ethics Board within fourteen (14) business days of the date the notice was sent.
4. The respondent may request that any hearing be held in open session.
5. The Corporation Counsel shall contact the members of the Ethics Board to schedule a probable cause hearing.

**E. Investigations and Powers.** Pursuant to any investigation or hearing conducted under this ethics article, the Ethics Board has the authority to:

1. Require any person to submit in writing such reports and answers to questions relevant to the proceedings conducted under this article as it may prescribe, such submission to be made within such period and under oath or otherwise as the Ethics Board may determine.
2. Administer oaths and require by subpoena issued by it pursuant to Wis. Stat. § 885.01, the attendance and testimony of witnesses and the production of any documentary evidence relating to the investigation or hearing being conducted.
3. Order testimony to be taken by deposition before any individual who is designated by it and has the power to administer oaths, and, in such instances, to compel testimony and the production of evidence in the manner as authorized by Subsection C (2), above.
4. Pay witnesses the same fees and mileage as are paid in like circumstances by the courts in Wisconsin.
5. Request and obtain from the Department of Revenue copies of state income tax returns and access to other appropriate information under Wis. Stat. § 71.78(4), regarding all persons who are the subject of such investigation.
6. Retain outside counsel and other experts as needed in connection with any of the Ethics Board's responsibilities hereunder after solicitation of recommendations from the office of the District Attorney and upon such contract for services approved for content and form by the Corporation Counsel.

**F. Hearing Upon Finding of Probably Cause**

1. If after investigation, the Ethics Board finds that probable cause exists for believing the allegation(s) in the complaint, the Ethics Board shall not less than thirty (30) business days after such finding is made schedule a hearing date. The Ethics Board shall give the complainant and the accused at least thirty (30) business days' notice of the hearing date. The Ethics Board shall appoint outside counsel to act as prosecutor of the complaint.
2. Pursuant to Wis. Stat. § 19.85, the hearing shall be closed to the public unless the accused requests that it be opened.
3. All evidence, including certified copies of records and documents which the board considers, shall be fully offered and made part of the record of the case. The evidence presented shall be limited to the scope of the charges made in the complaint. The Ethics Board shall not be bound by the rules of evidence for trial, but it shall admit all evidence having reasonable probative value provided that it relates to the scope of the charge(s) made in the complaint and shall exclude immaterial, irrelevant or unduly repetitious testimony.
4. Every party shall be offered, during all stages of any investigation or proceeding conducted under this ethics ordinance, reasonable opportunity to rebut or offer countervailing evidence.
5. The parties and/or their representatives shall provide each other with an opportunity to examine all documents and records to be used at a hearing under this section at least ten (10) business days prior to the scheduled hearing.
6. The parties may make a brief opening statement to acquaint the board with the nature of the complaint;
7. During the hearing, the parties shall have the opportunity to present witnesses, confront and cross-examine adverse witnesses and establish all pertinent facts.
8. The voting members of the Ethics Board may direct questions to any party or witness.
9. The burden of proving violations alleged in the complaint shall be on the complainant. Violations shall be proven by clear, convincing and satisfactory evidence.
10. All proceedings held before the Ethics Board shall be recorded either by a certified court reporter or an electronic recording device.
11. The Ethics Board shall have the power to compel attendance of witnesses and to issue subpoenas under Wis. Stat. § 885.01.
12. Unless otherwise precluded by law, informal disposition of any case may be made by stipulation, agreed settlement, consent order or default.

**G. Deliberations and Decision.** Upon completion of the hearing, the Ethics Board shall adjourn to closed session for deliberations. Any person not a member of the board, including county board supervisors, shall be excluded from the deliberations of the Ethics Board. Within the ten (10) workdays of the conclusion

of the hearing, the Ethics Board shall complete and serve the parties its written findings, recommendations and orders signed by all participating Ethics Board members, together with findings of fact and conclusions of law, concerning the propriety of the conduct of the Official or Employee. The recommendations made by the Ethics Board may include a recommendation of the action and/or discipline that the Ethics Board believes that the Official or Employee by the Official's or Employee's governing, appointing or hiring authority should consider taking against the accused including, without limitation, censure, suspension, removal of an Official from office or employment or that an Employee be disciplined or discharged. If the Ethics Board determines that no violation of this ethics ordinance has occurred, it shall dismiss the complaint, and notify all parties involved including the accused, and if requested to do so by the accused, issue a public statement. If the Ethics Board finds that clear, satisfactory and convincing evidence of an ethics violation exists, the Ethics Board shall take any action and make any recommendations and/or orders that it deems appropriate in accordance with this ordinance. The official or body to whom the decision of the Ethics Board is referred shall be guided by the recommendations of the Ethics Board but shall not be obligated to follow them.

- H. **Penalties:** The Ethics Board may recommend to the County Board any one or more of the following sanctions:
1. That the Official or Employee conform his or her conduct to this ethics code.
  2. That the Official or Employee be issued a private or public reprimand.
  3. In the case of a citizen member, that the appointing authority consider removing the person from the committee, board or administrative agency.
  4. In the case of any Employee, that the Employee's hiring or appointing authority consider imposing discipline up to and including discharge of the Employee.
  5. In the case of an elected County Board Supervisor, that the County Board consider sanctioning, censuring or expelling the Supervisor.
  6. In addition to the above listed sanctions, the County Board may impose a nonrefundable forfeiture of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (1,000.00) upon the individual found to have violated any of the provisions of this ordinance.
- I. **Enforcement and Penalties.** If, after investigation and hearing, the Ethics Board determines by clear, convincing and satisfactory evidence that a violation of this ethics ordinance has occurred, the Ethics Board must take one (1) or more of the following actions:
1. Supervisors. If the person found to have violated this ethics ordinance is an elected member of the board of supervisors, the Ethics Board may refer the matter and recommendations to the board of supervisors for whatever action the board of supervisors deems appropriate under law.
  2. Other Elected Officials. If the person found to have violated this ethics ordinance is an elected county official other than a member of the board of supervisors, the matter may be referred to the official or body with the authority to remove the official from office as provided under the Lafayette County ordinances or Wisconsin statutes. If none is designated in the

Lafayette County ordinances or Wisconsin statutes, the matter shall be referred to the board of supervisors.

3. Appointed Officials. If the person found to have violated this ordinance is an appointed county official, the matter may be referred to the official or body with the authority to remove the official from office as provided under the Lafayette County ordinances or Wisconsin state statutes. If none is designated by the Lafayette County ordinances or Wisconsin statutes, then the matter shall be referred to the official or body who appointed the official to office.
4. Employees. If the person found to have violated this ordinance is an employee, the Ethics Board may refer the matter to the employee's appointing/hiring authority.
5. Return/Restitution. An order for the specified return of county property or funds or gifts and/or restitution for the value of the gifts, property and funds procured, obtained or retained as a result of a violation of this ethics ordinance. An order for return/restitution shall include a deadline for return or making restitution.
6. Modify Behavior. An order requiring the accused to conform his/her conduct to this article.
7. Fine. An order requiring an individual who has been determined by the Ethics Board to have violated this ethics ordinance to forfeit an amount not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each offense along with a payment deadline.
8. Corporation Counsel Action. The corporation counsel, when requested by the Ethics Board, shall institute a civil proceeding to recover any forfeiture, restitution or declaratory order incurred under this ethics ordinance which has not been timely complied with by the subject of the order. Any forfeiture or other funds recovered under this section shall be remitted to the Lafayette County treasurer. Any property ordered returned shall be returned to the county department or entity from which the property was taken, or to any other person or entity providing a gift.
9. Referral to the District Attorney. Referral to the District Attorney to commence enforcement and penalties as permitted by Wisconsin Statutes
10. Other Penalties. The enumerated penalties and sanctions in this section shall not be construed to limit the authority of the Ethics Board or the County from imposing any additional penalties or sanctions. The County may take disciplinary actions, up to and including discharge, based on any acts, omissions or conduct of any employee that the County determines has engaged in conduct which is in violation of this ordinance in accordance with the County's policies governing employment. Such disciplinary or other action by the County is not contingent upon the filing of an ethics complaint under this ordinance, any finding whatsoever by the Ethics Board or any competent court of jurisdiction pursuant to this ordinance and is not precluded by any decision of the Ethics Board hereunder. Any person found by the Ethics Board to have violated any portion of this ethics ordinance shall be subject to

private reprimand, public reprimand, denial of salary or merit increase, suspension without pay, removal from employment or office in accordance with the provisions of Wisconsin statutes or other disciplinary actions pursuant to the recommendations of the Ethics Board and/or judgment of the official or body to whom the decision of the Ethics Board is referred under this section. Any action taken by an Official or Employee that is deemed in violation of this section may be deemed void by Lafayette County.

#### **9.14 Severability**

If any of the provisions of this ordinance is held to be invalid or unconstitutional or if the application of any provision of this ordinance to any person or circumstance is held to be invalid or unconstitutional, such holding shall not affect any other provision or applications of this chapter which can be given effect without the invalid or unconstitutional provisions or applications.

Fiscal Note: Unable to determine any tangible fiscal impact from the passage of this ordinance.

Legal Note: Within County Board Authority.

I, Carla Jacobson, Clerk of the County of Lafayette, State of Wisconsin, do certify that this ordinance was amended by the Lafayette County Board of Supervisors at a meeting held on March 17, 2020.

# CODE OF ETHICS

## Addendum 1

Date Approved: March 17, 2020

### ETHICAL PRINCIPLES

These ethical principles apply to any county (appointed or elected) public official, candidate for county public office and county employee.

The ethical county official, employee and candidate should:

- Properly administer the affairs of the county.
- Promote decisions which only benefit the public interest.
- Actively promote public confidence in county government.
- Keep safe all funds and other properties of the county.
- Conduct and perform the duties of the office diligently and promptly dispose of the business of the county.
- Maintain a positive image to pass constant public scrutiny.
- Evaluate all decisions so that the best service or product is obtained at a minimal cost without sacrificing quality and fiscal responsibility.
- Inject the prestige of the office into everyday dealings with the public employees and associates.
- Maintain a respectful attitude toward employees, other public officials, colleagues and associates.
- Effectively and efficiently work with governmental agencies, political subdivisions and other organizations in order to further the interest of the county.
- Faithfully comply with all laws and regulations applicable to the county and impartially apply them to everyone.

The ethical county official, employee and candidate should not:

- Engage in outside interests that are not compatible with the impartial and objective performance of his or her duties.
- Improperly influence or attempt to influence other officials to act in his or her own benefit.
- Accept anything of value from any source which is offered to influence his or her action as a public official.

The ethical county official, employee and candidate accepts the responsibility that his or her mission is that of servant and steward to the public.

A county official, employee and candidate may be subject to censure or reprimand by the County Board or its designee, for violation of these ethical principles.